IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA VALDOSTA DIVISION

CARL JEROME HOLMES,

:

Petitioner,

v. : Civil Action No. 7:04- cv-77(HL)

B.G. COMPTON, Warden, USP, : Lee County; ATTORNEY GENERAL;: STATE OF GEORGIA, :

:

Respondent.

r

ORDER

The Recommendation of United States Magistrate Judge Richard L. Hodge, entered July 18, 2006 [doc. 29], in the above-captioned case is before the Court. Petitioner has filed written objections to the Recommendation [doc. 30], as permitted by 28 U.S.C. § 636(b)(1). The Court, has given *de novo* consideration to those portions of the Recommendation to which objection has been made, but finds the objections to be unpersuasive. As the Magistrate Judge noted in the Recommendation, the petition is untimely and Petitioner has not demonstrated the kind of extraordinary circumstances contemplated by the application of equitable tolling. Nothing presented in the objections persuades the Court that the Recommendation is in error. Accordingly, the Court accepts the Recommendation; Respondents' Motion to Dismiss [doc. 25] is granted; and the petition is hereby dismissed with prejudice. *See* Pavlovsky v. VanNatta, 431 F.3d 1063, 1064 (7th Cir. 2005) (holding that "the dismissal of a suit as untimely is a dismissal on the merits, and so should ordinarily be

made with prejudice, barring relitigation").

SO ORDERED, this the 27th day of September, 2006.

s/ Hugh Lawson HUGH LAWSON, JUDGE

mls